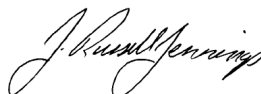


## Memorandum

**To:** Duane A. Goossen, Director of the Budget  
Attn: Julie Thomas

**From:** J. Russell Jennings, Commissioner



**Date:** February 1, 2010

**Re:** Fiscal Note for SB 460

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### SUMMARY OF THE BILL'S PROVISIONS

New Section 1 provides that any custody or parenting time order, or order relating to the best interests of a child, issued pursuant to the revised Code for Care of Children (CINC) or the revised Juvenile Justice Code take priority over orders issued pursuant to the Adoption and Relinquishment Act or Guardian and Conservators Act until jurisdiction under the CINC or juvenile offender code is terminated.

Section 2, revisions to K.S.A. 38-1116, provides that any custody or parenting time order, or order relating to the best interests of a child, issued pursuant to the CINC or juvenile offender code take priority over orders issued pursuant to the Determination of Parentage Act until jurisdiction under the CINC or juvenile offender code is terminated.

Section 3, revisions to K.S.A. 38-1121, provides that CINC proceedings may be brought in cases brought under parentage act, and those orders take priority; also permits the court to make placements in non-parental residences; requires referral to county or district attorney in cases where temporary custody awarded to agency or person other than parent.

Section 4, revisions to K.S.A. 38-2201, provides that CINC orders have priority over divorce, parentage, guardian and conservator, protection from abuse, and protection from stalking orders until jurisdiction under the CINC code is terminated.

Section 5, revisions to K.S.A. 38-2202, adds a definition for "civil custody case" and provides that it includes any case filed under the Parentage Act, the Adoption and Relinquishment Act, the Guardian and Conservator Act, or divorce.

Section 6, revisions to K.S.A. 38-2303, provides that court orders in a CINC proceeding pertaining to a child's custody, residency, parenting time and visitation take precedence over orders issued in a protection from abuse case or a comparable case in another jurisdiction except as provided in the Uniform Child Custody Jurisdiction and Enforcement Act.

Section 7, revisions to K.S.A. 38-2208, provides for technical amendments relating to court review of cases referred to citizen review boards at least once a year.

Section 8, revisions to K.S.A. 38-2212, provides for disclosure of certain confidential records upon express written consent from the individual involved or their representatives, or when the investigation of a child abuse/neglect case or the filing of a petition have become public, except that disclosure in such instances is limited to confirmation of procedural details relating to the handling of the case by professionals. The bill further clarifies that where child abuse/neglect results in a fatality or near fatality, reports or records of a child alleged or adjudicated to be a child in need of care received by the Secretary of SRS, law enforcement, or juvenile intake and assessment become public record. Where such records are requested to be opened, the Secretary or any affected person may file a motion requesting such reports or records remain closed; the court must make findings on the record to support closure and provide a copy of the journal entry to the affected parties and the individual requesting disclosure.

Section 9, revisions to K.S.A. 38-2242, provides for technical amendments to change the phrase "an initial order" to "the initial order" in subsection (f)(1).

Section 10, revisions to K.S.A. 38-2243, provides for technical amendments to change the phrase "an initial order" to "the initial order" in subsection (h).

Section 11, revisions to K.S.A. 38-2251, clarifies the time limit for final adjudication or dismissal of a CINC case to be 60 days from the date of the filing of the petition, unless good cause for a continuance is shown on the record.

Section 12, revisions to K.S.A. 38-2255, provides that the licensing requirements of article 5 of chapter 65 of the Kansas Statutes Annotated are not required with a court ordered placement to an individual with close emotional ties to the child. It further removes excess language pertaining to when the Secretary may place a child removed from the custody of a parent back with the parent.

Section 13, revisions to K.S.A. 38-2258, clarifies which parties must receive notice of any change in placement, and includes petitioner, attorneys, interested parties, and court appointed special advocates.

Section 14, revisions to K.S.A. 38-2264, provides that prior to dismissal in cases where permanency has been achieved with one parent without terminating the rights of the other parent, the court may enter child custody orders if it is in the best interests of the child, and requires the completion of a parenting plan. It further requires the court to determine whether any custody orders have been entered in any other civil custody case. The bill further requires that a certified copy of any CINC custody orders are filed in the civil custody case(s), and after consultation

with the judge in the civil custody case, may file a declaration that the CINC custody order shall become the custody order in the civil custody case. This section also provides that the court may order consolidation of the CINC case with any open civil custody case, and orders in the consolidated case take precedence over any previous custody orders; following entry of the custody order in the CINC case, that case shall be dismissed and jurisdiction returned to the court originally having jurisdiction over the civil custody case. This section further provides the court may direct the parties to file a civil custody case, and then file the custody and support orders in that case; costs of the civil custody case may be assessed to the parties. This section also provides that access rights to confidential information are not expanded to these amendments. Finally, this section provides that when permanency has been achieved to the satisfaction of the court, an order closing the case shall be entered.

Section 15, revisions to K.S.A. 38-2272, clarifies the form of acknowledgement of express parental consent to the appointment of a permanent custodian.

Section 16, revisions to K.S.A. 38-2273, pertains to the district court's continued jurisdiction over CINC cases appealed to the appellate court.

Section 17, revisions to K.S.A. 38-2279, pertains to modification of child support orders following closure of a CINC case.

Section 18, revisions to K.S.A. 38-2304, provides that orders concerning the child's custody, residency, parenting time and visitation issued in juvenile offender cases take precedence over orders issued pursuant to the Determination of Parentage Act, Divorce Act, and the Adoption Act.

Section 19, revisions to K.S.A. 38-2305, clarifies venue in juvenile offender cases, and provides the court may determine venue upon its own motion.

Section 20, revisions to K.S.A. 38-2361, provides that the Commissioner must provide the court a 21 day notice of a juvenile's release from a juvenile correctional facility. The court is required to set and hold a permanency hearing within seven days of the juvenile's release.

Section 21, revisions to K.S.A. 60-1610, provides that custody or support orders entered in a CINC case shall become the orders in the divorce case following consultation with the judge in the divorce case, a certified copy of such orders shall be filed in that case, and the CINC case closed. This section also provides such orders are binding unless modified based on a material change in circumstances. This section further provides that any custody or parenting time order, or order relating to the best interests of a child issued pursuant to the CINC Code or the juvenile offender code shall be binding and take precedence over any order under the Divorce Code, until jurisdiction under the CINC Code or the juvenile offender code is terminated.

Section 22, revisions to K.S.A. 60-3103, pertains to priority of CINC orders in protection from abuse cases, and provides that any custody or parenting time order, or order relating to the best interests of a child issued pursuant to the CINC Code or the juvenile offender code shall be

binding and take precedence over any order under the Protection From Abuse Act until jurisdiction under the CINC Code or the juvenile offender code is terminated.

### **IMPACT ON JUVENILE JUSTICE AUTHORITY OPERATIONS**

The majority of the proposed amendments set out in SB 460 would revise the CINC Code, and therefore have no impact on Juvenile Justice Authority operations.

Revisions to Section 20 pertain to the notification concerning a juvenile offender's pending release from a juvenile correctional facility. This will not have an impact will impact on day-to-day agency operations as notices are currently provided 20 days prior to release.

### **BUDGET IMPACT**

None.

### **COMMENTS**

None.